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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/580,431	07/10/2006	Christian Haeggberg	5844	2552
26936 7590 01/06/2009 SHOEMAKER AND MATTARE, LTD 10 POST OFFICE ROAD - SUITE 100 SILVER SPRING, MD 20910			EXAMINER MEYER, JACOB B	
			ART UNIT 3618	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/580,431	Applicant(s) HAEGGBERG, CHRISTIAN	
	Examiner JACOB MEYER	Art Unit 3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 4,9-11,17 and 20-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-8,12-16,18 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>05/24/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Election/Restrictions

1. Applicant's election of Species 4 in the reply filed on 10/17/2008 is acknowledged. Because applicant did not distinctly and specifically point out any errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). A telephone conversation between Examiner and Charles Farrow (Applicant's attorney) on 12/31/2008 was held to confirm a typographical error in the election. The elected claims to be examined and agreed upon by both parties as reading on the elected species are claims 1-3, 5-8, 12-16, and 18-19.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

3. The information disclosure statement (IDS) submitted on 05/24/2006 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 5-6, 15-16, and 18-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Mitzman (US Pat. No. 6,357,784 B1).

Regarding claim 1, Mitzman teaches a collapsible stroller (Abstract) comprising a seat element (Element 20a), a seat back (rear part of Element 20), a first mounting (Element 1) for at least one front wheel (Element 6), a second mounting (Element 16) for at least two rear wheels (Element 8), and a pushing device (Element 30) and a folding device (Element 18), wherein the seat element, the seat back and the first and the second mounting are attached to the folding device on one side to be able to pivot around it (Figures 1-4 or alternatively see Figures 7A-7D), the folding device has pivot joints (wherein Elements 17 and 19 aide in the pivoting motion of said Elements) for pivoting of the seat element, the seat back and the first and the second mounting (column 1, lines 16-40), and the folding device has a first position (Figure 2) which corresponds to the operating position of the stroller, and a second position (Figure 3) in which the stroller is collapsed.

Regarding claim 2, Mitzman teaches a stroller as claimed in claim 1, wherein the folding device can be fixed in the first position, and, for collapsing the stroller out of the first into the second position, further comprising a release mechanism (Element 40) for simultaneously releasing at least two elements from the group of the seat, the seat back, the first and the second mounting and the pushing device (column 4, lines 49-67).

Regarding claim 3, Mitzman teaches a stroller as claimed in claim 1, further comprising a release mechanism (Element 40) for simultaneously releasing the seat, the seat back, the first and

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the second mounting and the pushing device (wherein the release of Element 40 allows all the elements to pivot or move relative to one another, thereby releasing these elements).

Regarding claim 5, Mitzman teaches a stroller as claimed in claim 1, wherein, in the collapsed position, the seat element, the seat back and the first and the second mounting are arranged roughly parallel to one another, protruding from the folding device (Figures 3 and 7D).

Regarding claim 6, Mitzman teaches a stroller as claimed in claim 1, wherein the seat element, the seat back and the first and the second mounting in the operating position are arranged roughly in a star shape around the folding device (Figure 2, wherein these elements are arranged **roughly** in a star shape inasmuch as the arrangement of the instant application are arranged roughly in a star shape around the folding device).

Regarding claim 15, Mitzman teaches a stroller as claimed in claim 1, further comprising a footrest (Element 4) attached to the first mounting.

Regarding claim 16, Mitzman teaches a stroller as claimed in claim 1, wherein the pushing device is attached to the seat back (by means of Elements 16, 17, 18, 22, and 25).

Regarding claim 18, Mitzman teaches a stroller as claimed in claim 1, wherein the pushing device can be adjusted in length (column 3, lines 41-56).

Regarding claim 19, Mitzman teaches a stroller as claimed in claim 1, wherein, in the collapsed position, the lower surface of the seat element and the first mounting are the outer sides of the stroller (Figures 1-4, wherein the lower surface of the seat element, Element 20a, is exposed to the back of the stroller, wherein the first mounting, Element 1, is exposed to the front of the stroller when in the collapsed position; said elements are the outer sides of the stroller inasmuch as those of the instant application are the outer sides).

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6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

7. Claims 1 and 7-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Barenbrug (US Pat. No. 6,513,827 B1).

Regarding claim 1, Barenbrug teaches a collapsible stroller (Abstract) comprising a seat element (Element 9), a seat back (Element 10), a first mounting (Element 6) for at least one front wheel (Element 3), a second mounting (Element 7) for at least two rear wheels (Element 4), and a pushing device (Element 5) and a folding device (Element 8), wherein the seat element, the seat back and the first and the second mounting are attached to the folding device on one side to be able to pivot around it (column 2, line 49 - column 4, line 4), the folding device has pivot joints (Figure 6) for pivoting of the seat element, the seat back and the first and the second mounting, and the folding device has a first position (Figure 1 and those positions disclosed but

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not shown in the drawings wherein the wheels are capable of rotating and supporting the load) which corresponds to the operating position of the stroller, and a second position (Figure 3) in which the stroller is collapsed.

Regarding claim 7, Barenbrug teaches a stroller as claimed in claim 1, wherein in the operating position the angles between the seat element, the seat back and the first and the second mounting can be continuously fixed or can be selected from a given number of positions (column 3, line 44 - column 4, line 4, wherein it is inherent from the disclosure that the angles between said elements can be continuously fixed or can be selected from a given number of positions while in an operating condition by means of the folding device).

Regarding claim 8, Barenbrug teaches a stroller as claimed in claim 1, wherein the pivot joints of the seat element, the seat back and the first and the second mounting are located flush on an axis of rotation (Figure 1, wherein the axis of rotation is seen about Element 8 and it is noted that the seat element and seat back rotate about Element 8 **in addition** to rotation about the axis shown at Element 17).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitzman (US Pat. No. 6,357,784 B1).

Regarding claim 12, Mitzman teaches the invention except for wherein the seat back has projections for supporting the stroller in the collapsed position. Mitzman teaches projections (Element 10) on the first mounting for supporting the stroller in the collapsed position (Figure 3, column 3, lines 57-65). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have incorporated the projections on the seat instead of on the first mounting, since the invention would perform equally well with either configuration and it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70. Moreover, “when there is a design need or market pressure to solve a problem and there are a finite number of identified, predictable solutions, a person of ordinary skill has good reason to pursue the known options within his or her technical grasp. If this leads to the anticipated success, it is likely the product is not of innovation but of ordinary skill and common sense. In that instance the fact that a combination was obvious to try might show it was obvious under 35 U.S.C. 103.” *KSR Int’l Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1742, 82 USPQ2d 1385, 1396 (2007). Therefore, it would have been obvious to try placing the projections on any

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one of the surfaces to support the stroller in the collapsed position. It is noted that a recitation directed to the manner in which a claimed apparatus is intended to be used does not distinguish the claimed apparatus from the prior art if the prior art has the capability to so perform. See MPEP 2114 and *Ex parte Masham*, 2 USPQ2d 1647 (1987).

Regarding claim 13, Mitzman teaches the invention except for further comprising at least one carrying handle for carrying the stroller in the collapsed position. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used the pushing device (Element 30) as a handle when in the collapsed (as taught by Mitzman, column 3, lines 41-56) position instead of an additional handle, since doing so would reduce the number of parts and amount of material necessary to manufacture the device.

Regarding claim 14, Mitzman discloses the invention wherein the carrying handle is attached laterally to the seat element, to the seat back or to one of the mountings (wherein in view of the obviousness as pointed out above, the handle is attached as disclosed in either one of Figures 4 or 7A of Mitzman and is therefore inherently attached laterally to at least one of the mountings).

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The documents cited in the Notice of References Cited attached hereto contain subject matter that may be of interest to Applicant.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to JACOB MEYER whose telephone number is (571)270-3535.

The examiner can normally be reached on Monday - Thursday 9am to 7pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CHRISTOPHER ELLIS can be reached on 571-272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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01/03/2009